

Virginia Department of Social Services
Medicaid Fact Sheet #3
ASSET TRANSFER

The following information is given as a guideline only. In order to determine Medicaid eligibility, an application must be filed with the local department of social services in the area in which you live.

The transfer of assets on or after August 11, 1993, for less than the current market value could make you ineligible for Medicaid payment of nursing facility or community-based care waiver services for a period of time. Assets include money in the bank, certificates of deposit, real property, and income. Transfer for less than the fair market value means giving an asset away or selling it to anyone, including family members, for less than it would bring on the open market. Fair market value for real property is the tax assessed value.

If you need nursing facility or community-based care and you transfer an asset any time within 36 months of the date you apply for Medicaid and the date you begin to receive the care, Medicaid may not pay for that care for a specified period of time. If the transfer involves trust funds, eligibility can be affected if the transfer occurred during the 60 months prior to the first date a Medicaid application was filed and the care began. The period of time Medicaid will not pay is based upon the uncompensated value of the transferred asset. The penalty period begins with the month in which the transfer occurred. Uncompensated value is the difference between the value of the asset and the amount you received for it. The period begins with the month in which the transfer occurred.

The uncompensated value divided by the average monthly private nursing facility rate at the time of the Medicaid application and rounded down to the next whole number is the number of months in the penalty period. The following chart shows the average monthly private nursing facility cost:

Average Monthly Private Nursing Facility Cost		
Application Date	Northern Region	All Other Localities
10-1-93 to 9-1-96	\$2,554	\$2,554
10-1-96 to 10-1-97	\$2,564	\$2,564
10-1-97 to 12-31-99	\$3,315	\$2,585
1-1-00 to 12-31-00	\$3,275	\$2,596
1-1-01 to 12-31-01	\$4,502	\$3,376
1-1-02 to 12-31-03	\$4,684	\$3,517
1-1-04 and after	\$5,403	\$4,060

Example: For an application filed in January of 1996, the amount used to calculate the period is \$2,254. If the uncompensated value of the asset transferred is \$22,400, Medicaid will not pay for nursing facility or community-based care for 9 months beginning with the month of transfer ($\$22,400 \div \$2,254 = 9.93$ months).

Some items can be given away without penalty. They are:

- household goods and personal effects.
- up to \$4,500 of an automobile's value.
- property that is essential to your self-support.

- burial spaces or plots held for use of immediate family.
- up to \$1,500 set aside for funeral arrangements.
- \$1,500 in total life insurance on an individual.
- any resources transferred to a child who is blind or disabled.
- property for which you intended to receive adequate compensation.
- home property when it is transferred to:
 - ❑ your spouse or minor dependent child;
 - ❑ a blind or disabled child of any age;
 - ❑ a sibling who has lived in the home for at least a year and who has some ownership interest in the property; or
 - ❑ an adult child who lived with you for the last two years and who provided care that kept you out of a nursing facility.

If the transfer was not made in an effort to become or remain eligible for Medicaid, there may not be a penalty period. You must submit evidence to prove intent, such as the amount of your assets near the date of the transfer and your state of health near the date of the transfer.

If an asset has been transferred and the denial of Medicaid would be an "undue hardship" as defined by Medicaid regulations, there may not be a penalty. You must submit evidence to prove any undue hardship claim.

SECTION 20-88.02 OF THE CODE OF VIRGINIA MAY AFFECT A PROPERTY TRANSFER

Section 20-88.02 of the Code of Virginia states that the person to whom property was transferred can be asked to repay Medicaid for any bills Medicaid paid on your behalf if the uncompensated value of resources transferred (money in the bank, real property, etc.) is more than \$25,000.

For example, you may decide to transfer resources worth \$30,000 to your child and not be eligible for Medicaid payment of nursing facility or community-based care for 11 months. If you then become eligible for Medicaid, the child to whom the property was given could be asked to reimburse Medicaid for medical services paid by Medicaid.

No repayment will be asked if the property was your home and any of the following people live in the home:

- your spouse,
- your natural or adopted child under age 21,
- your child of any age who is blind or disabled according to the Virginia Medicaid program.

No repayment may be asked if repayment would work an undue hardship on the person to whom the property was transferred. If the person to whom the property was transferred does not fully cooperate with the determination of undue hardship, it will be assumed that no hardship exists.

MEDICAID FACT SHEET #3 ASSET TRANSFER

FORM NUMBER - 032-03-839/4

PURPOSE OF FORM - To provide information about transfer of assets and Medicaid payment of nursing facility care or community-based care waiver services.

USE OF FORM - Local agency workers will distribute this form to individuals inquiring about nursing facility or community-based care.

NUMBER OF COPIES - One

DISPOSITION OF FORM - One per inquirer.

INSTRUCTIONS FOR PREPARATION OF FORM - To print this form, first print position should be 8, line spacing should be 6, and pitch should be 10. The form does not require the addition of any information by the eligibility worker.